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ARMY PROCUREMENT PRACTICES

HEARING

BEFORE THE

SUBCOMMITTEE ON PREPAREDNESS

OF THE

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

WARREN, MICHIGAN

APRIL 18, 1984

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ARMY PROCUREMENT PRACTICES

WEDNESDAY, APRIL 18, 1984

U.S. SENATE,
SUBCOMMITTEE ON PREPAREDNESS,
COMMITTEE ON ARMED SERVICES,
Warren, MI.

The subcommittee met, in open session, pursuant to notice, at 9 a.m., in the Main Auditorium, Research and Development Building, of the U.S. Army Tank and Automotive Command [TACOM], Senator Carl Levin presiding.

Members present: Senator Carl Levin.

Staff present: Jeffrey H. Smith, minority counsel.

Also present: Ralph White, assistant to Senator Levin.

OPENING STATEMENT BY SENATOR CARL LEVIN, PRESIDING

Senator LEVIN. Good morning, everybody.

I am pleased to convene this meeting of the Preparedness Subcommittee of the Senate here at the U.S. Army Tank—Automotive Command in Warren, MI. I want to thank you, General Ball, and your staff, for allowing us to hold this meeting at TACOM. I think it's the first hearing of the Senate Armed Services Committee that has been held in Michigan probably for decades, at least within recent memory. It will be of great assistance to the Senate Armed Services Committee to have the benefit of you and your staff's knowledge of procurement, as we consider several bills and amendments in the procurement area. We will be considering these bills in the weeks and months ahead and I am hoping that we will take some comprehensive action in this session of Congress.

Since I first came to the Senate, I have been intensely interested in the processes by which the United States Government, both defense and nondefense, procures goods and services. During this time I have become deeply convinced of three things:

First, it is only through free and open competition that the Government, and ultimately the taxpayer, can be assured of getting the best deal in procurement.

Second, Congress, the executive branches, and top-ranking military officers must constantly push the system to increase competition, while at the same time recognizing that there are some items that we may never be able to competitively procure.

Last, given this recognition, it is important that contracting officers and buyers be effectively armed—much as we arm our soldiers in the field—with the tools, audits, pricing support, cost and pricing

data, computers, descriptions of what is being purchased in language which our purchasing officers can understand, so that they can negotiate the best possible price for the Government where we do have to negotiate those prices.

But, again, that's what we need when we can't get competition. Competition is the answer and it exists in less than 40 percent of the contracts that are awarded by the Department of Defense.

At this particular Command about 80 percent or more of our contracts are competitive so you have a tremendous record in this Command and I congratulate you for it. It is a model for the rest of the country.

I want to just give one example of what competition can do. A Michigan business, the Clarke Equipment Co. of Benton Harbor, MI, came to us with a complaint about a directed sole source procurement for some tractor-type equipment just a few years ago. With the assistance of your command we worked to have a portion of that sole source contract canceled and awarded competitively instead. Now at the same time we did this, I asked the General Accounting Office to monitor the case and determine the level of savings from competition. It turned out that a procurement which was to cost over a million dollars ended up costing about $600,000. Thus a savings of 40 percent was achieved simply from allowing competition. This study assigned a dollar and cents value to a belief which many of us already held which is that we must simply take advantage of the forces of the marketplace in procuring goods and services.

Over the last year our study of the procurement area has led me into the arena of smaller purchases. This is where I believe we may not have done all that we could do to enable our buyers to do the kind of job that I'm convinced they want to do. Earlier this week I went on a walk-through, General, with you and your staff, of the procurement activity here at TACOM. At that time we followed the progression of a purchase order from the time it is issued until the time of contract award. It is obviously a very complex process and that chart we have up here this morning reflects some of the complexity, at least, of that process; as a matter of fact, that's a simplified chart. However, those of us that are interested in streamlining the procurement process must take the time to understand these complexities. You folks understand them here, you live with them every day. Too often the understanding is not transmitted to Washington. We, too often, do not act to give you and your people the tools that they need to negotiate on an equal basis with private industry. Too often we simply get false information in Washington. By the time it gets to Washington it's very different from the reality here on the ground.

So I have encouraged my colleagues in the Senate to try to plunge into this acquisition system, into this procurement system to understand it the best that we can. I personally testified in front of the committee, both in the Senate and in the House, encouraging them to continue their oversight process in this area.

Before I conclude, General, and turn it over to you for your testimony, let me just say a few words about three particular cases that tell

us a great deal about the way that purchases are made and the way purchases have been made in the past.

Two of them are not new. We have heard a lot about them. I bring them up because in depth study of these cases serve to immerse many people in the details of parts purchasing and pricing.

First, the famous Allen wrench, this hex wrench which I'm holding in my hand. It's similar to the one which a prime contractor proposed to sell to the Air Force for $9,600, with two slight modifications worth a few dollars each, in all fairness. While that was never purchased—it was caught in time. The contractor here reasonably believed that he could bill the U.S. Government $9,600 for that 12-cent Allen wrench based on prior practices between that contractor and the Air Force.

Then we have some plastic stool caps. These are similar the ones that became well known last summer when an irate staff sergeant complained to his superiors about a bill that his purchasing command received for $1,100 for these two caps to fit on the bottom of an aviator's stool on the AWACS' plane. In a letter to other members of the Senate Armed Services Committee, which is available here this morning, I outlined the flaws in the procurement process which this purchase exposed. To name a few, these caps were bought with a national stock number and the buyer had no idea what these items were. Also, these items were bought with an unpriced order and the service ordered the parts and received them before ever agreeing to a price. There can be no doubt that we learn a lot through past purchases and past mistakes.

Now let's talk about a success story—an example of where we have open competition and reasonable pricing that springs from the study of procurement cases here at TACOM. This is a tank track connector which was bought by TACOM earlier this year. The price that was paid for that connector was $5.39. This was bought in a large order, 176,115 connectors, and was purchased after receipt of 21 different bids. We reviewed the files on this purchase and it appears to be a model procurement. It's an example of what we can do when we handle procurement competitively.

Now let's move to the matters before us this morning. I'm looking forward to hearing from you, General Ball, and the other witnesses here this morning.

As you know, last Friday I introduced a bill in the Senate, Senate bill 2571. It was introduced on a bipartisan basis. It's been referred to the Senate Armed Services Committee. I know that neither you nor your staff have had the opportunity to review in detail the provisions of that bill, and I am not going to be asking you to endorse specifically that bill this morning. The Army, of course, must have an opportunity also to officially look at the provisions of that bill and I respect that process. To the extent that you are able personally to comment on some of the provisions there in general, that would be extremely helpful to us. Again, to the extent that you are able to do that we will appreciate it.

General Ball, again, we thank you for making your facilities here available to this committee, because they belong to all of us. I will now turn it over to you.

STATEMENT BY MAJ. GEN. DUARD D. BALL, ACCOMPANIED BY HENRY JONES, DIRECTOR OF PROCUREMENT, TACOM, U.S. ARMY AND LT. COL. CHARLES KNEDLER, JR., PROJECT MANAGER FOR SPARES, TACOM, U.S. ARMY

Thank you, Mr. Chairman.

I'm pleased to have the opportunity to appear before this committee and share with you some of our procurement activities here at TACOM both some of our—what we consider to be successes—and some of the areas that we have identified with it that are worthy of continued effort and improvement.

I have with me here this morning Mr. Henry Jones who is Director of Production Procurement, and on my left Lieutenant Colonel Charles Knedler, who is appointed within this Command as the Project Manager for Breakout.

Other procurement personnel are available and will appear later.

With your permission I will submit my statement for the record and present a brief overview of TACOM and our procurement mission, and then we will hear more details from following witnesses.

TACOM is a major subordinate command of DARCOM. We are responsible for the entire life cycle management, cradle to grave management, of all tank and automotive materiel for the Army.

To look at that in a bit of an overview, it's a bit awkward, Mr. Chairman, but I do have some viewgraphs appearing behind you.

Starting at the bottom circle, we have here the Tank Automotive Command Research and Development Center. That's our idea factory. Validated ideas born here are transitioned to the program and project managers for follow-on development and production. Fully fielded systems are eventually transitioned to the procurement and readiness side of the house.

Moving to the left, we manage here at TACOM a 1.2 million vehicle fleet with an asset value in excess of $25 billion. We do this at our Warren facility with over 6,000 civilian employees and almost 400 military employees. Our annual budget is over $8 billion, and I will break this budget out in more detail following this statement. We handle about 1.4 million requisitions per year. These are addressed to us from the field for parts and materiel. We award about 35,000 contracts annually for the materiel needed to support these demands. We have about 5,500 contractor personnel who operate our two tank plants, one located here on the arsenal and the other in Lima, OH.

And, finally, we play quite a considerable role in the operation of Selfridge Air National Guard Base. We have a support activity permanently stationed there which, among other missions, completely administers the base housing and other personnel stationed at TACOM and throughout the greater Detroit area.

Now let's look at the procurement function in more specificity.

As you can see from this chart, TACOM's overall budget for fiscal year 1984, including prior year carry-in, exceeds $7.7 billion. Now to put that in perspective the Army's total obligation authority for fiscal year 1984 is $62.6 billion. TACOM is responsible for about 9 percent of the fiscal year 1984 budget.

Of this program $7.7 billion, $2.7 billion is further distributed to other Government agencies for such items as radios, armament, and fire control equipment to support TACOM managed systems. It is used also to pay TACOM employees and for general operations and services of TACOM facilities. The remaining $5 billion is the value placed on contract by TACOM for goods and services. Of this total, about 35 percent of all TACOM contract dollars will be awarded competitively. The majority of the noncompetitively awarded dollars are for major systems, such as tanks and personnel carriers. Which, even though there might have been competition up front for the initial selection of the contractor, it is not practical to continue to award competitive contracts on a year-to-year basis.

We presently utilize 974 procurement personnel and about 500 of those procurement personnel are involved in the procurement of spare parts.

I will break spare parts into three categories. Provisioning are those spares required to support new systems. The replenishment category includes all spares required for normal peacetime support following provisioning. War reserve stocks, as the name implies, are contingency reserves. Since this category represents only a small percent of our total spares budget, we've lumped it together with replenishment for this and succeeding discussions. Within each category are two funding classes; Army procurement appropriation secondary and Army stock fund. This chart shows that the bulk of all spares are for replenishment, and that over two-thirds of the total spares budget is for Army stock fund items. Spares of all categories total about 18 percent of the total TACOM budget.

Where adequate technical data has been available, we have been quite successful in obtaining competition for spare parts. We compete 70 percent of the contract funds for replenishment and war reserve spares. This percentage is especially noteworthy in that it is based on all spares including large components such as engines and transmissions in the PAA–2 account which often are necessarily sole source. As I showed in the previous chart, the highest dollar amount for spares is the Army stock fund replenishment consisting primarily of smaller piece parts. In this area, we are awarding competitively 87 percent of the dollars and 91 percent of the contract actions.

Provisioning spares includes spares required to support newly fielded vehicles before adequate technical data is available. Therefore, we are experiencing a low percentage of competition in this category.

Assurance of fair and reasonable prices is always a matter of key command interest. I believe that TACOM has been very cost conscious in the acquisition of both major systems and spare parts during the current modernization program. In the procurement of major systems which represent 75 percent of our contract dollars, we have been meticulous in developing procurement strategies which offer the greatest opportunities for cost savings. We have relied upon availability of commercial equipment already in existence to the fullest extent practical. In so doing we have avoided developmental costs, assuring acquisition of demonstrated reliable equipment, standardizing equipment and obtaining the financial benefits of competition. We have negotiated

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multiyear contracts for the CUCV, HMMWV, and family of commercial construction equipment during the past 24 months. The total amount of these multiyear contracts is $2.3 billion and exceptionally keen competition was obtained for each procurement.

Whenever it has been necessary to resort to sole-source procurement for systems such as the M–1 tank and Bradley fighting vehicles and their major components, like engines and transmissions, we have worked extensively to improve production efficiency and made effective use of should cost examinations to reduce cost. In fiscal year 1983 alone, we conducted eight should-cost studies in major systems procurements valued at $3.1 billion and obtained a savings of $618 million as shown on this chart.

Now the should-cost is a very exhaustive review; it takes several months to perform. We go into the plant, review the production process, review and analyze the burden and overhead cost. The findings of this survey team form the basis for negotiations for the contract. Now these are real savings to the taxpayers. This notwithstanding, recent intensive reviews and analysis have identified some areas for further improvements, particularly in spares acquisition.

I have chartered my Deputy Commanding General for Procurement and Readiness, Brigadier General Flynn, to serve as the Command Special Advocate for Competition. His role is to ensure that acquisitions are made on a competitive basis to the maximum practicable extent. In addition to reviewing special contract strategies and cases, he oversees the development of competitive technical data and ensures that acquisitions are planned in a manner which avoids emergency sole-source buys.

TACOM also established a project management office for breakout—Lieutenant Colonel Knedler is here with me—we did this on August 4, 1985, and subsequently expanded its mission to be the command focal point for all spares policies and to monitor the accomplishments of our initiative.

Procedural and policy changes were also needed to enhance competition. TACOM is increasing its staffing in our technical data review to accomplish more in depth study of sole-source parts for breakout. Project managers have been directed to devise plans to accelerate breakout of spares and to emphasize early validation of technical data packages for their data.

We have increased our spares price reviews to include intrinsic value estimates, more detailed independent Government cost estimates, and more value engineering reviews to reduce prices. We also have a system of management reviews for approval of all price increases. If the increase is over 25 percent on an annualized basis, it must be approved by me personally regardless of the total dollar value of the contract.

Concurrent with these actions, we have reinforced training dedicating more than 4,000 hours to training specifically oriented to spares acquisition. We have also concentrated in raising awareness among all people who participate in the procurement process, encouraging them to challenge, for example, prices, challenge proprietary drawings, and sole-source procurements.

In summary, we are acutely sensitive to the role of TACOM in total Army readiness and to our responsibilities to the Army and the taxpayer to discharge those responsibilities effectively and efficiently. We're proud of our records in both areas. While we have placed great emphasis on cost reductions and have achieved considered success, we recognize opportunities for further achievement. We are committed to leaving no stone unturned and to meeting all the procurement objectives with minimum impact on administrative lead time and without degradation in force readiness. I appreciate your interest and support in the pursuit of our mutual goals.

Thank you.

Senator LEVIN. Thank you, General.

[The prepared statement of Maj. Gen. Duard D. Ball follows:]

PREPARED STATEMENT BY MAJ. GEN. DUARD D. BALL, COMMANDER, U.S. ARMY, TANK AUTOMOTIVE COMMAND (TACOM)

INTRODUCTION

Mr. Chairman, members of the Committee. I am pleased to appear before you today and report on TACOM's procurement responsibilities. I will discuss TACOM's mission and procurement activities in terms of functions, manpower, and budget with particular emphasis on spare parts acquisiton. With your permission, I will insert my formal statement into the record, present you with a brief summary and answer any questions you may have.

MISSION

The U.S. Army Tank-Automotive Command (TACOM) procurement responsibilities must be viewed as a part of its whole mission and relationship to its higher command.

TACOM is one of five subordinate commands to the U.S. Army materiel development and readiness command, which through its major subordinate commands, performs the mission of providing the soldier the proper equipment and materiel to defend our nation.

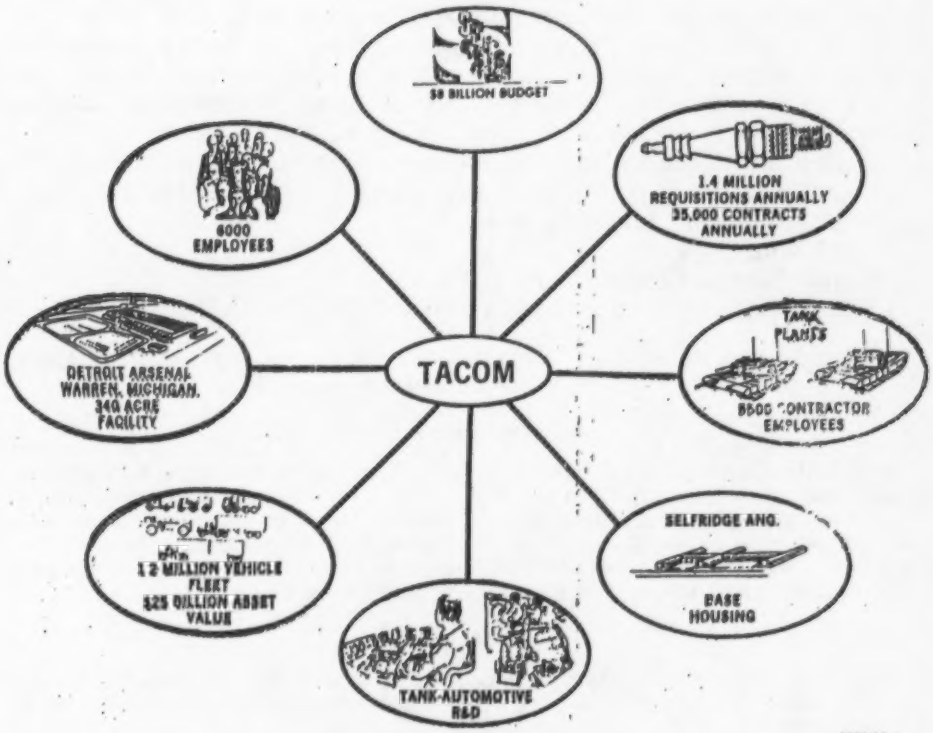
Of the commodity orriented subordinate commands, TACOM has the unique responsibility to develop, procure, distribute and support combat, tactical, special purpose and construction vehicles, including related support items for DOD users and friendly foreign governments. Specific examples of the types of items TACOM manages are:

(1) Tactical trucks and combat vehicle weapon systems.
(2) Special purpose vehicles.
(3) Remote control target vehicles.
(4) Components and share parts for all Army combat and tactical vehicles.
(5) Trailers and semi-trailers.
(6) Commercial vehicles (CV), construction equipment (CE), and materials handling equipment (MHE) and their peculiar secondary items and repair parts.
(7) DOD integrated materiel management of all parts peculiar to combat and tactical vehicles of Army design.
(8) Military and commercial tires and tubes (non-aircraft), tire rebuilding and tire and tube repair materials.

TACOM has life cycle responsibility for this equipment beginning with the conceptual stage in our research and development center and extending through final development, production, fielding and support to maintain readiness of the Army in the field until the item is removed from service.

Obviously, this is a large mission. Let's look now at an overview from a somewhat different perspective.

TACOM OVERVIEW



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As you look at this chart, the eight circles highlight key points that I think are important to an understanding of what TACOM is all about. Those that relate to our role in the procurement process will be dealt with in detail later in my remarks and in the remarks of others who follow.

Starting from the bottom center circle, I'd like to first point out that we have a research & development center here at TACOM. One of my two Deputy Commanding Generals, BG Carl Weidenthal is its commander. Much of the current tank-automotive equipment in the field today was conceived in this R&D center and matured through exploratory and advanced development by our own engineers and scientists. Validated ideas born here are transitioned to the program and project managers for follow-on development and production. Fully fielded systems are eventually transitioned to the procurement and readiness side of the House, run by my other Deputy Commanding General, BG Bill Flynn.

Moving to the second circle, we manage here at TACOM a 1.2 million vehicle fleet with an asset value in excess of $25 billion. We do that here in our 340 acre arsenal with over 6,000 civilian employees and nearly 400 military personnel. Our annual budget is over $8 billion (which will be broken-out in detail later in this statement). We handle about 1.4 million requisitions per year and award about 35,000 contracts for the materiel needed to support these demands. We have over 5,500 contractor personnel operating our two tank plants, one here on the arsenal and the other in Lima, Ohio, and we play quite a considerable role in the operation of Selfridge Air National Guard Base. We have a support activity permanently stationed at the Selfridge Air National Guard Base which, among other missions, completely administers the base housing and other services. Now let's look at the procurement function in specific.

TACOM FISCAL YEAR 1984 PROGRAM

TACOM
FY84 PROGRAM-ALL APPROPRIATIONS
($ IN MILLIONS)

	AUTHORIZED	%
PAA - MAJOR ITEMS (INCL 83 AND 82 CARRY-IN AND CUSTOMER PROGRAM)	$5,815.8	75.0%
PAA - SECONDARY ITEMS (INCL 83 AND 82 CARRY-IN AND CUSTOMER PROGRAM		
TOTAL	427.6	5.5%
PROV	(147.7)	
REPL	(205.4)	
WAR RES	(74.5)	
ASF (INCL OA AND CA)		
TOTAL	985.1	12.7%
PROV	(234.7)	
REPL	(746.0)	
WAR RES	(4.4)	
RDT&E (INCL 83 CARRY-IN)	230.4	3.0%
OMA (INCL FAMILY HOUSING	291.3	3.8%
GRAND TOTAL	$7,750.2	100.0%

As you can see from this chart, TACOM's overall budget for FY84 and prior year carry-in exceeds $7.7 billion. The percentage breakout is: 75% to buy major items (e.g., tanks and trucks), 18.2% spares, which includes both secondary items and army stock fund items, 3.0% RDT&E, and 3.8% operation (includes salaries, family housing, etc.). For perspective, the Army's total obligation authority for FY84 is $62.6 billion dollars. TACOM is responsible for about 9% of the FY84 budget.

Of the TACOM program, $2.7 billion is further distributed to other government agencies for such items as radios, armament and fire control equipment to support TACOM managed systems; used to pay TACOM employees; and for general operations of the TACOM facilities. The remaining $5 billion is the value placed on contract by TACOM for goods and services. Of the 35,000 contracts TACOM will award in one year, small business will receive 16% of the dollars and Michigan firms will receive 20% of the dollars. About 35% of all TACOM contract dollars will be awarded competitively. The majority of the non-competitively awarded dollars are for major systems, such as tanks and personnel carriers. In awarding the program, we presently utilize 974 procurement personnel. Approximately 500 of these are required for spare procurements.

TACOM
SPARE PARTS VS BUDGET

	% OF TOTAL SPARES ($)		% OF TOTAL BUDGET ($)	
	PAA-2	ASF	PAA-2	ASF
PROVISIONING	10.5%	16.6%	1.9%	3.0%
REPLENISHMENT/ WAR RESERVES	19.8%	53.1%	3.7%	9.66%
TOTAL	30.3%	69,7%	5.6%	12.66%
	100.0%		18.26%	

The percentage of total budget considered "spare parts" falls into three categories. Provisioning represents those spares required to support new systems. The replenishment category includes all spares required for normal peacetime support after initial provisioning. War reserve stocks, as the name implies, are contingency reserves. Since this category represents only a fractional percent of our total spares budget, we've lumped it together with replenishment for this and succeeding discussions. Within each category are two funding classes; procurement Army appropriation secondary and Army stock fund. This chart shows that the bulk of all spares are for replenishment, and that over two-thirds of the total spares budget is for Army stock fund items. As stated earlier, however, spares of all categories and funds, total only 18% of TACOM total program.

SPARES

TACOM SPARES

	PROGRAM ($M)	% TACOM PROGRAM	% COMPETITIVELY PROCURED
REPLENISHMENT/ WAR RESERVE	$1030.3	13.3%	70.3%
PROVISIONING	$382.4	4.9%	6.0%

Where adequate technical data has been available, we have been quite successful in obtaining competition for spare parts. We compete 70 percent of the contract funds for replenishment/war reserve spares. This percentage is especially noteworthy in that it is based on all spares including large components such as engines and transmissions in the PAA-2 account which often are necessarily sole source. As I showed in the previous chart, the highest dollar account for spares is the Army stock fund replenishment consisting primarily of smaller piece parts.

In this area, we are awarding competitively 87 percent of the dollars and 91 percent of the contract actions.

The provisioning spares, as stated, involve the initial parts required to support newly fielded vehicles before adequate technical data; therefore, we are experiencing a low percentage of competition.

Assurance of fair and reasonable prices is always a matter of key command interest. Efforts to achieve this assurance have received priority attention within TACOM. I believe that TACOM has been very cost conscious in the acquisition of both major systems and spare parts during the current Army modernization program. In the procurement of major systems, which represent 75 percent of our contract dollars, we have been meticulous in developing procurement strategies which offer the greatest opportunities for cost savings. We have relied upon availability of commercial equipment already in existence to the fullest extent practical, thereby avoiding developmental costs, assuring acquisition of demonstrated reliable equipment, standardizing equipment and obtaining the financial benefits of competition. In this manner, we have negotiated multiyear contracts for the CUCV, HMMWV, and family of commercial construction equipment during the past 24 months. The total amount of these multiyear contracts is $2.3 billion and exceptionally keen competition was obtained for each procurement.

INTENSIVE PRICE ANALYSIS AND SHOULD-COST NEGOTIATIONS—FISCAL YEAR 1983

[Dollar amounts in millions]

	Quantity	Total proposed	Total negotiated	Total savings
M1 tank	1,457	$1,440	$1,089	$351
M60 tank	768	493	364	129
M1 engine	776	287	256	31
M1 transmission	735	133	122	11
M2/M3 Bradley	678	339	291	48
M113 APC	1,143	170	141	29
M88 MRV	203	117	101	16
M981 FISTV	70	36	33	3
Total	.....	3,015	2,397	618

Whenever it has been necessary to resort to sole source procurement for systems such as the M–1 tank and Bradley fighting vehicles and their major components such as engines and transmissions, we have worked extensively to improve production efficiency and made effective use of should cost examinations to reduce cost. In FY83 alone, we conducted eight should cost studies in major systems procurements valued at $3.1 billion and obtained a saving of $618 million as shown on this chart. These are real savings to the taxpayer. This notwithstanding, recent intensive reviews and analysis have identified some areas for further improvements particularly in spares acquisition.

Additional TACOM Initiatives

Organization

Procurement and readiness DCG chartered as competition advocate.
PM spares formed.

Procedures

Increased TDP reviews for breakout.
Policy on earlier delivery of technical data for breakout.
Increased reviews on spares prices.

I have chartered my Deputy Commanding General for Procurement and Readiness, BG Flynn, to serve as the command special advocate for competition. His role is to ensure that acquisitions, being spares or systems, are made on a competitive basis to the maximum practicable extent. This requires his personal involvement not only with procurement personnel, but with all the disciplines which ultimately feed into the procurement process. In addition to reviewing specific contract strategies and cases, he oversees the development of competitive technical data and ensures that acquisitions are planned in a manner which avoids emergency sole source buys.

TACOM also established a project management office for breakout on 4 Aug., and subsequently expanded its mission to be the command focal point for all spares policies and may monitor for accomplishments.

Procedural and policy changes were also needed to enhance competition. TACOM is increasing its staffing in our technical data review area to accomplish more in depth study of sole source parts for breakout. Project managers have been directed to devise plans to accelerate breakout of spares and to emphasize early validation of TDP's.

Within the procurement area, we have increased our spares price reviews to include intrinsic value estimates, more detailed Independent Government Cost Estimates (IGCE), and more value engineering reviews to reduce prices. We also have a system of management reviews for approval of all price increases. If the increase is over 25 percent on an annual basis, it must be approved by me regardless of the total dollar value of the contract.

Concurrent with these actions, we have reinforced training dedicating more than 4,027 hours to training specifically oriented to spares acquisition. We have also concentrated in raising awareness among all who participate in the procurement process to challenge prices, proprietary and sole source procurements.

SUMMARY

In summary, we are acutely sensitive to the role of TACOM in total Army readiness and to our responsibilities to the Army and the taxpayer to discharge those responsibilities effectively and efficiently. We are proud of our record in both areas. While we have placed great emphasis on cost reductions and have achieved considerable success, we recognize opportunities for further achievement. We are committed to leaving no stone unturned and to meeting all the procurement objectives with minimum impact on administrative lead time and without degradation in force readiness. I appreciate your interest and support in the pursuit of our mutual goals.

Senator LEVIN. Mr. Jones, do you have a statement?

STATEMENT BY HENRY B. JONES

Mr. JONES. Mr. Chairman, I appreciate the opportunity to testify before this subcommittee and to present this statement for the record dealing with procurement practices at the Tank-Automotive Command. With your permission, sir, I would like to summarize the substance of that statement. I will not read it in full text.

Senator LEVIN. The full statement will be made part of the record.

Mr. JONES. Thank you.

With the full cooperation of the tank-automotive business community, TACOM has achieved a high measure of success in competing our contracts. Let me state at the outset, that the procurement and production directorate of personnel at TACOM are very much aware of their responsibilities and their stewardship of taxpayers' dollars. We are accountable of awarding contracts in excess of $5 billion a year.

I would like to spend just a couple of minutes talking about systems contracting but not dwell on it.

Although we have acquired technical data packages for our major systems, such as the M1 tank, which would permit us to compete with the M–1 tank, if lead times and cost of launching a production program would permit, these are factors which simply preclude that. However, with the technical data which we have insisted upon and which we have been provided funds to acquire, our prime contractors for the M–1 tank, for instance, and the Bradley fighting vehicle, are able to compete about 85 percent of their hardware costs; and the hardware costs on an M–1 tank, and I'm talking about purchases, exceeding 50 percent of the total contract price.

We think that in this manner, and through our should-cost evaluation proposal, that the taxpayer is getting his money's worth for these systems. These major systems account for somewhat a little over 60 percent of our annual $5 billion contract awards.

I would like to talk about spare parts for just a few moments, and I would like to discuss four major subjects, technical data, breakout efforts, pricing of parts, and just a word on personnel.

Almost 38 percent of all our prime contract dollars were awarded on a competitive basis in fiscal year 1983. Considering our major systems contracts that are negotiated noncompetitively I believe that this is a very respectable record.

With respect to dollars awarded for replenishment spares, and we stress replenishment spares because that is the arena where all of our parts eventually will fall after we have completed our modernization program. With respect to the replenishment spare parts, some 87 percent of those were purchased competitively. I'm talking about dollars, sir, 87 percent of the dollars.

Underlying this ability to obtain competition is the availability of adequate technical data to permit the manufacture of a part by multiple sources. This we have been fortunate in providing for.

In the inventory of items which we manage, and I believe that's something on the order of 55,000 stock numbers, about 70 percent can be purchased competitively. Many of the spares, which cannot be purchased competitively, are those required to support commercial-type equipment, such as the CUCV, and the new family of commercial construction equipment. This equipment, the CUCV and construction equipment, are examples of systems which involve substantial portions of our program, which are commercially available in the marketplace, and they can adequately perform the military missions for those components. Their acquisition enables us to avoid substantial research and development costs. They provide us with demonstrated reliable hardware and they make up impressive savings in initial acquisition costs. However, because they are commercial-type items developed at commercial, private expense, we do not obtain the technical data for the repair parts for those equipments. We were aware at the time we decided to take advantage of the savings in time to field and the savings in initial acquisition, that the spare parts predominantly for the CUCV, which basically is a Chevrolet Blazer, was a commercial item involving General Motors commercial parts. We believe that we have to respect their rights in that regard.

With regard to breakout efforts, TACOM has been reasonably successful in its breakout. By breakout we mean converting from sole-source procurement to either competitive procurement or procurement from the basic manufacturing source, 87 percent of our replenishment dollars and 70 percent of our line items are bought competitively. Our performance can be improved, however, by several spares initiatives that are under consideration. We support a reasonable time limit on retention of proprietary rights by development contractors and their subcontractors, provided that there is an exception to that rule, where it is determined appropriate and not to acquire the data, and there are reasons, there are circumstances under which it wouldn't seem appropriate or not cost effective.

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With respect to existing sole-source items already in the supply system, a review can be made over a reasonable period of time, to determine whether the acquisition of data on a case-by-case basis is cost effective and warranted either through purchase of the data or reverse engineering, and we believe that it is a good initiative.

Another measure, which would permit us to increase competition would be the acquisition of data early in the program life, and we believe that this is administratively something that is within our control, and General Ball has instructed us to proceed with implementing measures to accelerate that program on new acquisitions.

Now with regard to the pricing of parts. We believe that the Contracting Officer should be able to demand suitable cost and pricing data when appropriate, regardless of dollar value of procurement. As you know, sir, the threshold at the present time is $500,000. We believe that on an optional basis that should be reduced.

In closing, I would like to comment very briefly on the staffing of the procurement operations at TACOM. I believe that the Department of the Army and DARCOM have been responsive to the obvious desires of the Congress and have authorized additional personnel spaces which we requested. These slots are now being filled and we expect to have the entire complement, which consisted of 118 authorized spaces, filled in the next 90 to 120 days.

In summary, Mr. Chairman, we believe that we are fully aware of the demands and expectations of the Congress and the executive department to improve our procurement operations in the acquisition of spare parts, and we fully support those objectives. We believe that we either have or are in the process of obtaining the necessary capability to perform the job expected of us.

Thank you, sir.

[The prepared statement of Henry B. Jones, follows:]

PREPARED STATEMENT BY HENRY B. JONES, DIRECTOR OF PROCUREMENT AND PRODUCTION, U.S. ARMY, TANK-AUTOMOTIVE COMMAND (TACOM)

INTRODUCTION

Mr. Chairman. I appreciate the opportunity to testify before this subcommittee and to present this statement for the record dealing with procurement practices at the tank-automotive command. At the outset, let me state that the procurement and production directorate personnel at TACOM are very much aware of the awesome responsibility of their stewardship of taxpayers' dollars. We are accountable for awarding contracts in excess of $5 billion per year.

With the full cooperation of the tank-automotive business community, TACOM has achieved a high measure of success in competing our contracts. Although we have acquired technical data packages for our major systems such as the M–1 tank and the Bradley fighting vehicle systems, lead times of 24 to 36 months for a new contractor coupled with the high cost of launching a production program makes competition for these major systems contracts generally impracticable. However, with the technical data, our prime contractors are able to compete about 85 percent of the prime's hardware costs. Thus, the taxpayer does derive the benefit of competitive prices in the overall acquisition of these systems. Moreover, each of these major noncompetitive systems contracts is subjected to an intensive should cost examination directed toward improvement of efficiency and reduction of cost both in-house and at the plants of major sole source suppliers. Our major contractors have been supportive of these actions, and they have been cooperative on their own initiative in ferreting out inefficiencies, reducing production costs, and improving quality. We are satisfied that the taxpayer is receiving his money's worth for the funds which have been entrusted in our stewardship for

these major systems. These systems account for about 60 percent of our annual $5 billion contract awards.

TECHNICAL DATA

Because of our emphasis on cost control, we compete prime contracts whenever obtainable. In FY 83, almost 38 percent of all of our prime contract dollars were awarded on a competitive basis. With respect to dollars awarded for replenishment spare parts, 87 percent was competitive. In the procurement of spare parts, we consider competition to be our normal business practice at TACOM. Not only does it provide us with better prices, but it makes the job of buying much easier and quicker for us.

Underlying our ability to obtain competition is the availability of adequate technical data to permit manufacture of a part by multiple sources. Because of the substantial logistical problems created by storage, use and maintenance of components of several makes and models for a single purpose, the acquisition of components to meet only the requirements of form, fit, and function is used sparingly. Standardization is critical to the readiness of the Army fleet of trucks. Accordingly, we emphasize, to the extent practical, the use of engineering drawings and specifications adequate to acquire competitively a component and its parts in the interest of standardization, readiness, and reasonable cost.

In the inventory of items which we manage, about 70 percent can be purchased competitively. Many of the spares which cannot be purchased competitively are those required to support commercial type equipment such as the CUCV (commercial utility cargo vehicle) and the new family of commercial construction equipment, which are now being delivered to the Army. These equipments, which are commercially available in the marketplace, can adequately perform the mission requirements of the Army. In planning for the acquisition of this equipment, the Army consciously elected to buy commercially available equipment in order to obtain the initial acquisition savings made possible by avoiding research and development costs, by obtaining equipment of proven and demonstrated reliability and by taking advantage of the larger economic order quantities as one of many buyers of the commercially available equipment. These savings and other objectives in the initial acquisition of the material have been achieved. However, in availing ourselves of these savings and other benefits, we were aware that the components and spare parts were designed, developed, and engineered at private expense.

Where, in accordance with current policy, we cannot acquire detailed design data for privately developed items, we seek to identify the source and acquire the capability to buy direct from that source. Lack of detailed design data does not keep us from buying competitively. We are aware of initiatives being looked at by both regulatory and legislative sources to modify current policy to require or enable the acquisition and use of data prepared at private expense. These initiatives are directed at enhancing our capability to procure competitively. However, we caution that provision must be made to balance the government needs against the consequences of overall acquisition savings. New regulations or legislation ought not to be so inflexible that we are deprived of the ability to make best buy decisions. There are instances where the acquisition of data will not enable us to obtain competition because of prohibitive start-up costs a new supplier would face.

BREAKOUT EFFORTS

TACOM has been reasonably successful in its breakout efforts. 87 percent of our dollars for replenishment spares and 70 percent of the line items can be bought competitively. Our performance can be improved by several of the spares initiatives that are under consideration. We support a reasonable time limit on retention of proprietary rights by development contractors and their subcontractors, provided that as an exception to the rule an appropriate authority at the working level may waive the requirement when in his judgment the best interests of the Government would be served by the waiver. The best interests of the Government would not be served if the services were deprived of ability to incorporate latest state-of-the-art components solely because of their inability to reach an agreement with the supplier on transition of proprietary rights. With this stipulation, we believe that new research and development contracts would be negotiated to provide for acquisition of rights within a reasonable timeframe.

With respect to existing sole source items already in the supply system, a review can be made over a reasonable period to determine whether the acquisition

of data on a case-by-case basis is cost effective and warranted either through purchase of data or reverse engineering.

Another measure which would permit us to increase competition would be the acquisition of data early in the program life. As a general rule, we believe that it is reasonable to expect the development contractor to deliver design data for parts procurement no later than the completion of first production year deliveries under the initial production contract. These data should disclose the actual manufacturer of the item, particularly if the data are not adequate for competitive procurement.

PRICING OF PARTS

We believe the contracting officer should be able to demand suitable cost and pricing data when appropriate, regardless of dollar value of the procurement. As a general rule, contractors have complied voluntarily with requests from our contracting officers for cost and pricing data even when the dollar value of the procurement is under the $500,000 threshold. However, there are instances of contractors having refused to submit the data on the basis that there is no statutory or regulatory requirement for such submission. We do not believe that it is necessary, or even desirable, to lower the mandatory threshold from $500,000 to $100,000. Our recommendation is that the mandatory threshold remain at $500,000.

PROCUREMENT WORKLOAD AND PERSONNEL

In closing, I would like to comment briefly on the staffing of the procurement operations at TACOM. TACOM procurement and production directorate is authorized 974 civilian spaces. Our authorized strength was recently increased by 118 spaces specifically to improve the spare parts procurement operations. Our on-board strength is 855, and we have a commitment of 20 new hires who are scheduled to come on-board during the next 30 days. At this time, we have a total of 560 contract specialists on-board, but this includes 243 trainee interns. We expect to have our full complement of people on-board to fill the entire 974 civilian spaces in the next 90 to 120 days.

SUMMARY

In summary, we believe that we are fully aware of the demands and expectations of the Congress and the executive department to improve our procurement operations in the acquisition of spare parts, and we fully support those objectives. We believe that we either have or are in the process of obtaining the necessary capability to perform the job expected of us.

Senator LEVIN. Thank you, Mr. Jones.

Colonel Knedler, do you want to add anything at this point?

Colonel KNEDLER. I have no statement, sir.

Senator LEVIN. General Ball, how is technical data stored here at TACOM?

General BALL. Our technical data is stored on microcards or microfilm. We do have the capability of identifying, sorting, selecting drawings, and technical data packages from the computer program, but that's the extent of the computerization for our technical data management.

Senator LEVIN. Would you support attempts to digitize the data and store it in computers?

General BALL. Most enthusiastically.

Senator LEVIN. What would it take? Why do you support it?

General BALL. The payoff, in my judgment, extends far beyond the procurement process. The technical data in essence is the fountainhead for many things that we do in the management of systems and parts that go with systems engineering changes. It would be very helpful to us to have digitized technical data in the preparation of manuals, manufacturing process sheets, depot work packages, seminars, training devices, training literature and, finally, troubleshooting

equipment for the soldier in the field, so his programs and publications are up to date. It would be a very beneficial process.

Senator LEVIN. Are we going to save money if we do that? I know it's going to cost us money in front, but are we going to save money in terms of purchases?

General BALL. Yes, sir, I feel confident, and I make that statement without any specific analysis of cost to do it or potential for cost savings.

Senator LEVIN. Without getting specifically into the cost and benefits at this moment, you are confident that there are significant savings that we will make if we digitize this data and put it on the computers?

General BALL. Yes, sir.

The qualification I would make Mr. Chairman, is that I am not sure it would be cost effective to go back and reconstruct all existing system data packages. For selective major items, I would certainly support going back and reconstructing and establishing a milestone, from which point all future systems would be placed in a digitized format.

Senator LEVIN. Do you have any idea of the cost of digitizing, either all of it or some of it, and doing it for future data packages?

General BALL. No, sir, but it would be many millions of dollars.

Senator LEVIN. Is there now in operation a plan to do this and is there funding in this year's budget for it?

General BALL. Yes, sir.

I don't know the extent of the funding. There is a plan, a program called DSREDS, that is an Army sanctioned and approved program, which is moving us toward digitization of our technical data. The Air Force has a similar program. This is a matter of key interest in the Joint Logistics Commanders. They are working to bring all services into a digitized, common process.

Senator LEVIN. Do you know how long this process is presently scheduled to take?

General BALL. I'm sorry, I don't. I will have to provide that for the record.

[The information follows:]

Senator LEVIN. What is the cost to acquire DSREDS?

General BALL. DARCOM is planning to install DSREDS at seven Major Subordinate Commands (MSCs) at a total cost of $40.4 million. The portion of the hardware acquisition and installation cost for the TACOM system is approximately $5.3 million and includes a one time nonrecurring cost of $283,000 to convert the technical data stored on aperture cards to digital data stored on laser cut discs.

Senator LEVIN. What are the estimated savings and some examples?

General BALL. DARCOM estimates a net savings of $21 million. Savings would accrue from:

Reduction in Administrative Lead Time (ALT) for processing procurement actions.

Reduction in drawing revision time to incorporate new changes.

Reduction in time to transmit data between Commands and system contractors.

Increased data storage capacity per system.

Senator LEVIN. When could the system be operational?

General BALL. Current acquisition strategy calls for the first system to be delivered to MICOM in FY86. TACOM will receive the fifth system and it is scheduled for delivery in FY88.

Senator LEVIN. Do you know whether the Navy is participating?

General BALL. To my knowledge, the Navy is not. They are still considering the process.

Senator LEVIN. Do you know why they haven't joined this program yet?

General BALL. I do not.

Senator LEVIN. What about the joint command, the purchasing command?

General BALL. The Defense Logistics Agency. To my knowledge, they are not currently participating in the program.

Senator LEVIN. The DLA?

General BALL. Yes, sir.

Senator LEVIN. Do you know why they are not participating?

General BALL. No, sir, I do not.

Senator LEVIN. Mr. Jones, can you tell us specifically what benefits that would mean to you and your people?

Mr. JONES. The way I visualize it will affect procurement in the future in that we will have the terminals that are in sufficient quantities on the desk or in the proximity of our buyers and they will be able, at sometime in the implementation of DSREDS, to call up on their terminal the design, the picture, whatever it is that is in the file to show them what it is that they are buying. This is of great benefit to us. We consider it necessary to have some reasonably simple way to inform a buyer precisely what it is that he's buying.

Senator LEVIN. Would you say that a buyer would be at a distinct disadvantage if they do not have at their command a simple description and a picture of the drawing?

Mr. JONES. They are buying in total ignorance. It's very inappropriate to understand a procurement in that fashion.

Senator LEVIN. Now we are basically doing that manually. At some commands they are not doing it at all, at least on some parts. That's what leads to this kind of problem that we have had with the Allen wrench.

Basically, you're saying the sooner we can do it with the computer the better off we're going to be?

Mr. JONES. Yes, sir.

I do believe sir, that it is at least a couple or 3 or 4 years away.

Senator LEVIN. It's at least that.

Would you agree that what we are doing here is creating a record? We've got staff of the Armed Services Committee here listening to to this. We are also creating a record for my colleagues and their staffs back in Washington.

Believe it or not, I actually know some of the answers to these questions that I am trying to create a record on, which we can use to be helpful.

Mr. Jones, I want to talk to you now about a subject that you referred to in your testimony, the purchase of the technical data.

You say that we ought to purchase it as soon as we can in the process. There are some exceptions, we may not be able to. It may be inappropriate to purchase it, as I understand your testimony. But we ought to try to purchase it as soon as we can where it is appropriate.

Can I then assume from you that you generally support purchase of the technical data providing there is sufficient flexibility in the legislative process?

Mr. JONES. Yes, sir, I fully support that.

Senator LEVIN. Can you be as specific as you can in saying why for the record?

Mr. JONES. The design data for an item is by far the best means as a general rule to obtain competition. The fall back position from that, of course, are performance specifications but that involves delays and it is not as satisfactory. The drawing for the item is really what we need, wherever it's obtainable, on what we are buying.

Senator LEVIN. At what point would you recommend that this data be delivered to us from the contractor?

Mr. JONES. We would certainly want to get it as soon as the design is mature enough to give us some confidence that the data is not going to change appreciably after we initially take custody of it. I think within 2 years after or by the end of the second production year of a major system, would be an appropriate time to obtain the full complement of technical data for spare parts.

Senator LEVIN. Would you recommend that the technical data be warranted by the contractor?

Mr. JONES. I would have to address that, sir, in two types and in two ways.

We buy two types of data generally, one is the data that covers development items such as the M–1 tank. That data is normally produced under a specific scope of work in a contract, and the contract is normally a cost type contract in which we state specifically how we want the format of the data. It has been inspected by our engineers, after it's prepared in accordance with our specifications, and is validated through the construction of hardware made for it. I think that type of data is appropriately covered already. We believe that we are reasonably successful in obtaining the data for developmental items.

Now with regard to the data for nondevelopmental items, where the data is prepared more or less as a side product on a prime contract, that data, which is provided, is the basis for cataloging and identification of a manufacturer's source. Where it's a purchase component, designed by a third party, I believe it would be appropriate to obtain a warranty of some kind on that because we have experienced difficulty in obtaining the data correctly the first time that it's offered.

Senator LEVIN. Unless that data is correct, you are not going to be able to get competition.

Mr. JONES. It delays the cataloging process and the fielding of the equipment.

Senator LEVIN. Would you be able to furnish, for the record, some specific examples where you have had difficulties?

Mr. JONES. Yes, sir.

[The information follows:]

One example of late and inadequate technical data, submitted by a contractor, was under Contract DAAE07–83–C–H260, which was awarded for a multi-year quantity of 1,977 each Heavy Road Graders. The present contract value is $123,895,327.00.

The contractor was required to deliver Provisioning Data, that is, Technical Documentation and the Preliminary Maintenance Allocation Chart (PMAC). The PMAC was required 60 days after contract award. A PMAC was submitted 75 days after contract award. The PMAC was found to be obsolete. An adequate PMAC was not received until six months later.

The technical data documentation was required to be delivered incrementally over a period from 45 days to 90 days from the date of the contract. None of these dates were met by the contractor. The contractor was contacted on several occasions and warned that the Government would not be able to accept vehicles without sufficient software data. Technical Documentation was received approximately 260 days after the date of the contract. Additionally, some of the Technical Documentation was incorrect and had to be returned to the contractor for correction and resubmission.

The technical data was required in order to develop National Stock Numbers which are incorporated into technical manuals so that the soldiers could requisition repair parts. Because of the above problem, the Government could not accept delivery of vehicles until six months after the original contract-scheduled date. The contractor has incurred increased costs due to storage and maintenance of approximately 412 vehicles as of the end of March 1984.

A second example of inadequate technical data submitted by contractor was under Contract DAAE07–83–C–H285 for 1,902 Scoop Loaders and 25 line items of software awarded to a contractor on 31 January 1983. The contract was valued at $111,974,732.00.

The contractor was required to submit provisioning data, i.e.,

Recommended Buy List (RBL) with and without National Stock Numbers, Long Lead Time Items, Provisioning Schedule, Items not on the RBL, Cross Reference Lists, Prior Engineering Screening Results and Drawings. This information is required in order to develop National Stock Numbers which are incorporated into technical manuals that the soldiers use in requisitioning parts. All provisioning data was to be submitted not later than 160 days after award of contract, i.e., 10 July 1983. The contractor submitted the last of the data 67 days after 10 July 1983, i.e., 15 September 1983. The data received was inaccurate in that some drawings d'd not match the information on computer cards, some numbers were incorrect, and the contractor provisioned himself as the prime source for certain parts whereas the vendor (subcontractor) was, in fact, the prime source. The Government has had to contact the contractor at least 20 times to obtain revisions to the data.

Because of the above problem, the Government has been unable to obtain National Stock Numbers for all of the 3,577 items which comprise the Scoop Loader. The impact has been the soldiers are not able to requisition parts, the fielding of vehicles has been delayed by 4 months and 380 vehicles will be stored at the contractor's facility as of the end of April 1984.

Senator LEVIN. On the question of proprietary rights, one of the proposals that we are making is that there be a limit on the proprietary rights and contractual time limits that allow contractors to claim a proprietary right in a product. We would propose that it be limited to 5 years, others have proposed 7 years, and others have proposed various exceptions to such a requirement.

General, why don't we start with you and then go back to Mr. Jones. What is your comment on that issue? I know it's a sensitive one with contractors. What do you think about it?

General BALL. Mr. Chairman, I fully support the objective of the initiative but I visualize difficulties in the implementation of a prescribed period.

I have some concern also for any dampening of a contractor's enthusiasm to do their own research, development and innovation.

We do review proprietary items. I'm absolutely in support of the objective of removing proprietary content from our equipment. Certainly it's to our advantage to get that out of the way and get to competition.

The only qualification I have, again, is I can't come to a comfortable judgment on whether it should be 5 years, 7 years, a shorter period or a longer period, because there are so many circumstances under which there are proprietary rights.

I would be most supportive of a periodic review. We are setting that up under our PM breakout. We review all proprietary items, make an evaluation of whether it's practical for us to do reverse engineering, substitute the item or whether it would be cost effective for us to acquire the proprietary rights. My key concern is on the restriction that of statute would place on engineers and contractors in the design of equipment and their development of equipment to meet specific requirements.

Senator LEVIN. Don't we have more leverage in negotiating on proprietary rights somewhere in front of the contracting process rather than waiting for the first 5 years to end?

General BALL. The answer is, yes, and we attempt to apply that leverage by requiring the contractors, in their development of material, to use standard parts and to justify the exception when they must use proprietary items. We encourage, that's as strong a word as I can use, the use of standard non-proprietary parts of items and equipment.

Senator LEVIN. In terms of the parts that are not standard, where there is a legitimate proprietary claim for some length of time, do we not have greater leverage in negotiating that length of time in front?

General BALL. Yes, sir, but there is a dichotomy there because we have the greatest leverage in front, but we also have great difficulty identifying what proprietary items might be in the proposal state.

Senator LEVIN. How can we overcome that hurdle so that we can have major leverage on price? Is there a moment where it's ideal to negotiate, where we know as much as we are going to know, as to what parts are going to be standard parts and which ones aren't going to be, where proprietary claims are legitimate, where is that ideal point in this process?

General BALL. It seems to me, Mr. Chairman, that the point comes at the time we go into full production. We have different contracting acquisition strategies for different items. As an example, the M–1 tank, we awarded the development contract and had the first 2 years of production as options under the development contract. So in effect we had production, low rate initial production options before the design was firm. But, as a minimum, at the end of the low rate of initial production, when the proposal comes in for full production, we certainly can identify proprietary content at that point, and my suggestion would be that we cause the contractor by a clause in the contract to identify those items which are proprietary, and tell the Government what the cost would be to acquire the proprietary rights to the contract.

Senator LEVIN. To summarize, before we enter into a full production contract, you would require identification by the contractor of where he's going to be making proprietary claims?

General BALL. Yes, sir.

Senator LEVIN. Part by part?

General BALL. Yes, sir.

Senator LEVIN. Now at that point we have already selected the contractor, so we have lost some leverage. We no longer have two or three people who are competing on the system. We have focused on one. Is there any way that we can get some kind of an indication from competing contractors as to the degree to which they will make claims of proprietary rights before we make the selection of the contractor? That's where our maximum leverage is.

Now I understand your point and you may not know that, no contractor may know exactly where they are going to have proprietary claims. It may be too early in their process for them to know with specificity. Is there some general statement that we can require contractors to make as to the degree to which they will claim proprietary rights before we select a contractor, so that we can consider in our selection process, which contractor is going to be making the most claims of proprietary interest? That's a factor.

If you gave me three contractors and they were each going to give us a product and this man's price is a little better than yours, and yours is a little better than his, I just look at that, and I want to look at more than price, I want to look at quality, I want to look at performance, I want to look at past history, I want to look at lots of things. One of the things we ought to look at is will that contractor make a significantly greater number of claims of proprietary interest than you or the other contractor because, if so, we are kind of over a barrel later on if we have made that selection and three-quarters of his parts are going to be proprietary, only half of yours are proprietary, and a quarter of yours. I think I would rather go with contractor three, maybe, even though the original cost may be a little more. I know that down the line I may be able to have greater competition on the spares.

My question to you is, even though I understand what you are saying about the difficulty of doing this before full production and the advantages of doing it at least at that stage, by the way, which is an advantage, is something that is important for us to know, because we could at least do it then; but given the difficulties of doing it prior to that, is there someway that we can get a general indication from the contractors before we make the selection?

General Ball. I think there is and I would ask Mr. Jones to address the provisions that we put in solicitations, the requirements on the contractors for spare parts.

Mr. Jones. We have a selection of components clause which we put in our development contracts which does give us an opportunity to look at what he's proposing to select. If you have an orderly, long term development program where you go through the concept phase, advanced development, full scale engineering development, you could probably, and if you carry at least two contractors who could afford to do that through those early stages so that you've got hardware before you have your shoot off for full scale engineering development, then you could consider the extent of proprietary interest claim. There is no hard and fast rule on that. It depends upon how we are accelerating it, the state-of-the-art in the development of the type of equipment we are talking about and it's very difficult. It becomes very difficult to generalize in such a way that we could apply the generalized rule to all these across the board on all systems.

Senator Levin. What would you think about asking contractors to state how long a proprietary claim they will make, where they are going to make it, without asking them to identify at the early stage precisely where they are going to make it? Let's say there are 6,000 parts on a vehicle and the contractor can't tell you exactly where there is going to be a proprietary claim yet, it's too early, until the full production stage. Let's assume that for purposes of discussion.

What would you think of asking the contractors in their bids to say, OK, whatever the number of parts are that you are going to have a proprietary claim on, 1,000, 6,000, 3,000, or 5,000, we'll negotiate that when it comes to the full production stage; but we want to know right now before we select the contractor, are you going to claim 5, 7, or 9 years?

On the B–52 I understand we still recognize proprietary claims on parts and this is 30 to 40 years later. The patents would have run out by now if there were patents on the parts. We're acknowledging voluntary proprietary interest longer than the law would have given them if they had a patent on the part.

My question is, could we require the contractors to compete with each other on that issue by at least saying the length of their claim in front, even if they can't tell us the precise number of parts to which that claim will be applied?

General, do you want to start with that?

General BALL. I think I need to work with this a great deal more, Mr. Chairman. I agree fully with the thrust. I think I may be suffering a bit from tunnel vision as I try to visualize the implementation of it. It's one thing to be in agreement that it's a good idea to accomplish the end objective, but in practical terms of getting there I would cite an example.

We procured all the rights for production of the 120mm gun ammunition from the Rhein Metall, German firm. Included was the formula for the resin used in production of combustible cartridges. It was a precondition that we acquire all these rights, and prove out the capability of manufacturing the entire system, exactly as it was done in Europe. The contractor, however, failed to acquire some subordinate rights for the production process data which was essential to produce the cartridge case. He attempted, instead, to reverse engineer it and gave us a formula that did not work.

I think there's a potential for a great deal of turbulence as a contractor attempts to comply and say, yes, we are going to give you unlimited rights, or we are going to have no proprietary interest beyond this point in time; but then when we get down to the work breakdown structure, deep within a transmission or some other component, we find there are some proprietary interests there that have not been identified, not even in the rather extensive review we make of the technical data package. A statutory requirement that this be complied with puts us in a bit of a box because when we get there, we must either very hurriedly reverse engineer successfully or we stand in jeopardy of not being able to procure these parts we need because we would be in violation of the statute.

Senator LEVIN. Before I turn to you, Mr. Jones, let me restate my question.

Could we not consider, when we are deciding on which contractor to go with, a statement of intention as to how long they intend to claim proprietary rights? There may be circumstances which change that intention. I think all of us realize that you can't lock in perfectly a complicated piece of machinery into a legal document. Something may come up in 5, 7, or 9 years down the line which you didn't foresee and that's understandable.

But isn't it relevant whether or not Contractor A is going to claim 5 years proprietary rights; Contractor B, 7 years; Contractor C, 9 years, when deciding between the three of them, even though you know that any one of the three of them may face a circumstance on a particular part where they can't carry out their intention. Wouldn't that be relevant to know that in advance?

General BALL. If we use terms like consider, I think we can implement that.

Senator LEVIN. I don't think we ought to automatically go with the shorter period at all. I think it's something that we ought to have a right to consider as one of the factors. I think it would put some pressure on contractors to keep those claims down because they all know they are competing with each other, and they don't know to what degree we will give weight to that factor.

OK, that's helpful.

Mr. Jones, do you have any comment on my question?

Mr. JONES. As long as it's on a best efforts basis, and we all understand that, and we would write an appropriate best efforts clause in the contract implementing what he says. It would be worthwhile, yes, sir.

Senator LEVIN. To shift to a different piece of this very complicated puzzle. This is an awfully dry subject but a critically important one.

Again, we are grateful that you are here this morning to try and help us put this in a form that we can make use of in Washington. There's too great a distance between us and the real world where parts are bought, made, installed and produced and so forth. This helps to bridge the gap, this kind of hearing, this kind of testimony.

Even though I am asking you to simplify things, it's critical that we try to bridge the gap in this way.

Mr. Jones, on the question of overhead allocation, going back to this Allen wrench again, and the reason that got up to $9,600 was overhead allocation, we look at that and we say, how could that end up being billed at $9,600 when you can buy it for 12 cents in a hardware store. It's a complicated, long, and painful story. Most of it has to do with, for example, 25 percent overhead for your administrative costs, *X* percent for labor costs, *Y* percent for profit, *Z* percent for other overhead and all different kinds of overheads.

The question though is this, sometimes prime contractors who supply parts add very little value or no value to the parts. Sometimes they are simply, I guess they are called, "drop shipped," where they are shipped directly from the subcontractor to the Government.

Now frequently they look like there is nothing added by the prime, they do add something. They may reinspect the part, they may repackage the part, they do little things even though they don't change the physical characteristics of it. I'm not including that. I'm saying where they literally add no value at all, even keeping track of the inventory, to give you the most absurd example perhaps of all.

How can we stop the system of adding overhead to parts when nothing is added of value by the person that is billing it? Is there a way? Should we try?

Mr. JONES. That's a very complex subject, Senator, and I don't know that I am competent to try to answer it. Contractors, and generally these problems that you are talking about here, sir, are with defense

contractors, who in effect have captive operations or captive plants to deal with, and they have costs of operating those programs and they recover their costs through an agreed-upon cost-accounting system that is developed on a cost consistent with cost-accounting standards and really needs to be addressed. The question that you ask really needs to be addressed by folks who are experts in the cost-accounting standards and auditing and I don't profess to have that expertise.

Senator LEVIN. Would you support lowering the threshold of mandatory submission of certified cost and pricing data to $100,000 providing we allowed for a waiver? I'll start with you, Mr. Jones, on this one first.

Mr. JONES. If I understand the question correctly, I would support such a requirement. What I would like to have is a requirement that contractors comply with when made by a contracting officer in most cases under $500,000. I would not advocate that we reduce across the board the $500,000 threshold, but there are instances when we need cost data under $500,000, and we have encountered resistance from some contractors in providing that because of the statute and the regulations.

Senator LEVIN. The statute now does provide for us to seek that information. It does require contractors to provide it presumably but we are running into trouble, not just here, but in other parts of the country in getting some contractors to supply it because there is no mandatory provision in the law for it. If we made it mandatory and said it can be waived, do we not give you the leverage that you need?

Mr. JONES. Yes; I would support that.

Senator LEVIN. General?

General BALL. Yes; even to, I think, going further. There are cases under $100,000 in which we would like the buyer to have the leverage to go to the contractor and the contractor be required to comply with the request for cost. I think we are in agreement, Senator, just a different way whether it's required to be provided when requested by the contracting officer.

Senator LEVIN. One last subject and then we are going to take a 5-minute recess and have another panel.

What is your opinion of requiring the submission of the bill of materiels on major systems for pricing review in later years? Mr. Jones, do you want to address that?

Mr. JONES. If we can define a bill of materiels as the list of purchased parts and materials required to produce an end item, and I think that's what we are talking about, sir, I would like to have it delivered at the time that a proposal is delivered, an initial proposal and, if I had my way about it, I would like for that to be delivered to us on a magnetic tape and I would like for that to be kept up to date by the contractor. I would like for it to be available to us for consultation in evaluation of spare parts procurement so we could compare what prime is paying for it with spare parts. We would have to have an authorization not to furnish that under the Freedom of Information Act, of course. But I think that's a reasonable demand and one that we should have.

Senator LEVIN. Now you showed me the other day an example where you do have this bill of materiel.

Mr. JONES. Yes, sir.

Senator LEVIN. On a major system.

Mr. JONES. Yes, sir.

Senator LEVIN. And is it your understanding that it would be subject to being obtained by a competitor under the Freedom of Information Act, or does the present Freedom of Information Act protect you from giving that out to competitors?

Mr. JONES. I believe it's competitive sensitive and we can safeguard it under the law as it is now, but I'm not absolutely certain.

Senator LEVIN. If we were going to somehow write in a requirement or some kind of a mechanism to encourage the use of that or a provision of that, we would have to check and take a look at that with our counsel to see that the Freedom of Information Act is adequately specific to protect potential competitors.

General Ball, do you have any comment on that question of the bill of materiels?

General BALL. No; I would certainly support what Mr. Jones has said.

Senator LEVIN. Mr. Smith or Mr. White, do either of you have a question you may want to throw in here quickly before we go to the next panel?

Mr. SMITH. No.

Senator LEVIN. We are going to, if everybody will abide with us on this, I think if you will all get up and just stretch, that's about as far as we can get in a couple of minutes. Let's just take a fifth inning stretch for about 5 minutes and put our next panel on.

Thank you.

[Recess.]

Senator LEVIN. We are now back in order and will take up our second panel of the morning.

Welcome.

Why don't we start with you, Mr. Agattas, tell us a little bit about what you do and go down the line and we will come back to questions. I don't think either of you have an opening statement, as I understand it. Mr. Agattas, what is your title and job description?

PANEL OF JAMES M. AGATTAS, CONTRACTING OFFICER, TACOM, U.S. ARMY; CONNIE TUCKER, BUYER, TACOM, U.S. ARMY; AND MALVIN GLASS, CONTRACT PRICE SPECIALIST, U.S. ARMY

Mr. AGATTAS. I am Contract Specialist and a Section Chief of the Army Tank Automotive Command.

Senator LEVIN. For the record, what does that mean?

Mr. AGATTAS. Under my jurisdiction I have 15 buyers, 4 clerical personnel and myself. We buy spare parts in my particular section for the 1¼-ton and 2½-ton vehicle.

Senator LEVIN. Ms. Tucker.

Ms. TUCKER. Well, I work for Mr. Agattas. I'm a Contract Specialist in his section. I buy spare and replacement parts, as he mentioned, for the 1½-ton and 2½-ton trucks. We buy some provisioning but primarily stock fund items.

Senator LEVIN. Mr. Glass.

Mr. GLASS. Sir, I'm a Contract Price Analyst. My job is to support the contracting officer with analysis of the proposals submitted by the contractors, and assist in the negotiation of a fair and reasonable price.

Senator LEVIN. Let's start off where we left off with our first panel and that's the question of the large overhead allocation.

I take it they come in to you and you are told that there is a certain overhead factor which is acceptable, agreeable, traditional, whatever the word is, administrative cost, material cost, labor cost, other kinds of overhead. Do you think it's possible, as a practical matter, for us to differentiate in the application of those overheads to circumstances where the contractor is adding significant value, to where the contractor is adding no value, or do we just simply have to, as a practical matter, take all of the contractor's items that he's selling to us and do it in a macro way. Take the big pie, divide it up and apply the same factor to everything, even though on this part the contractor may be giving us tremendous value.

The overhead may be logically and practically applicable, common sensibly practical, whereas on a "drop-shipped" part or some other part where you are not adding much value, it would seem ridiculous—it may not be ridiculous logically if you look at all the costs of that contractor—it may not actually be ridiculous, but it sure looks that way when you are adding a couple of hundred percent or a hundred percent overhead at each level. It seems to me that we have no accountability in the process.

My question is, should we attempt to differentiate in the application of overhead to the part that is real value added, a lot of value added compared to a part where there is very little value added? Anyone can try to answer that.

Mr. GLASS. I am not a DCAS specialist and you have to be one, and an accountant and DCAS specialist in order to determine that question. We are analysts. We rely on the DCAS regulations and what have you as to what is allowable. I would have to defer to people whose specialty is that area.

[Additional information follows:]

The Cost Accounting Standards Board (CASB) was established to promulgate cost accounting standards which are used as a basis for cost accumulation and allocation. These standards permit a variety of generally accepted cost accounting principles which are designed to achieve uniformity and consistency for cost of defense contracts.

The CASB recognized the difficulty in mandating a single cost accounting method and issued several standards dealing with specific elements of cost. A method which might be used is to promulgate a standard specifically related to the pricing of spare parts. This would require complete coordination of all Defense Department Services Contracting Agencies, the Defense Contract Audit Agency, and participating contractors. Ultimately the contractor would have to install an accounting system consistent with the cost accounting standards and then obtain approval of the Administrative Contracting Officer and DCAA.

We doubt that mandating of burden allocation by legislation is practical. In any event, the experts who should address this problem, we believe, are DCAA and DOD.

Senator LEVIN. Ms. Tucker, are you troubled when you are given the overhead figures and when you know that there is not much really that was added by that contractor, are you satisfied with the knowledge

that it all comes out in the wash because on some other part they are not getting as much as they perhaps should and it all comes out even at the end, are you troubled or not troubled?

Ms. TUCKER. Obviously I want to go with what is reasonable and allocable in that situation. But, again, the DCAS standards are there. But we buy or we are bound by those regulations and those standards.

Senator LEVIN. You just don't feel there is much you fundamentally could do about it at this end once you get those allocations, is that right?

Ms. TUCKER. Yes.

Senator LEVIN. Do you know how often the DCAA reviews the overhead rates? To your understanding is it regularly, every couple of months, 6 months on an item we buy a lot of, or a year?

Mr. GLASS. In general, every time we have a procurement that requires an audit the overhead rates are looked at. With some contractors that can be two, three times a year. With some contractors once a year. It depends on the item that you are buying. If it requires an audit, normally they go in and they look at the overhead rate as a part of that audit.

Senator LEVIN. Is it to our advantage or your advantage in negotiating, and here we are talking about noncompetitive contracts, is it to your advantage that you have a certified cost and price?

Ms. TUCKER. Yes; certainly in certain cases it's necessary to make a decision as to the fair and reasonable price as to what we should be paying for the item.

Senator LEVIN. Have you heard of specific instances where we have tried to get it and it's not mandatory?

Ms. TUCKER. You are talking of situations under $500,000?

Senator LEVIN. Yes.

Ms. TUCKER. In certain circumstances, yes.

Senator LEVIN. How about under $100,000, would there be certain circumstances where they would like to have had it and asked for it but were not able to get it because there was no requirement under $100,000?

Ms. TUCKER. I haven't personally had that circumstance but I have heard of instances where this has occurred and where we would have liked to have had it.

Senator LEVIN. Basically, if we gave you that tool, that leverage to insist on it—and I don't want to put words in your mouth—would it be to your advantage to have that leverage?

Ms. TUCKER. In certain circumstances, certainly.

Senator LEVIN. In order to have it in certain circumstances don't you have to have it?

Ms. TUCKER. Yes.

Senator LEVIN. If it's left to your discretion, without the mandate, you can get a fight on the other side.

Ms. TUCKER. Yes.

Senator LEVIN. The argument on the other side is that it's a lot of paperwork, a lot of maintenance and paper. You try to be sensitive to that. I'm not only on the Armed Services Committee, I'm on the Small Business Committee, but my hat on the Armed Services Committee tells me to get as much of this as we can because it helps us in negotiating price.

My Small Business colleagues tell me, Levin, what are you doing on the Armed Services Committee, you're driving these Small Business people crazy with all the certified data that you're requiring, so I'm pulled between two different goals.

My instinct tells me that it is reasonable that we do require this, at least in contracts of $100,000 or more.

What complaints do you get on this and do you think they are legitimate in terms of maintenance or the submission of the certified cost and pricing data?

Ms. TUCKER. The primary complaint is exactly as you've stated, the paperwork and the need for detail. In small businesses they have a greater difficulty preparing data and getting it to us but beyond that I don't, I mean, it's just not wanting to provide it in some cases but I don't know of any special problem.

Senator LEVIN. Do you think it's reasonable, in a nutshell, that where we want it, we should get it?

Ms. TUCKER. Certainly.

Senator LEVIN. And do you know of any way other than requiring it and allowing it to be waived that we can achieve that goal?

Ms. TUCKER. Well, the way we do it now is through persuasion where we can but that's not always fully effective.

Senator LEVIN. If we gave you the mandate and the requirement and allowed for a waiver, would that be strong enough?

Ms. TUCKER. I believe so.

Mr. WHITE. Ms. Tucker, last year the full Senate adopted an amendment that is now law requiring that any time a price increase is over 25 percent, the buyer has to make a determination that the price increase is fair and reasonable, document that in the records, and have it approved by the head of the procuring activity. Have you had personal experience with that law since it was implemented?

Ms. TUCKER. Yes; I have had one case that I just finished, as a matter of fact. There was a 25 percent increase but it was due primarily because the bidder had been unusually low the last time around in part to meet the market, which is the situation when the economy is very poor and he wanted to be sure that his people were kept on and kept busy. So that the price increase really has just taken us now to a fair and reasonable price for the items.

Senator LEVIN. Could you hear the question in the back of the room without the mike?

The question was that last year we adopted a law which requires that if there is an increase of more than 25 percent of the part that the purchasing officer must certify that it was a legitimate requirement and necessary that we increase the price, that we pay that price increase and that it was legitimate. That was something we added on the Senate floor, by the way. It was not the subject of long committee hearings. I know since I was the perpetrator of that amendment.

Has that created a problem for you, that amendment? Is it worthwhile? Should we, for instance, change it, after just 1 year, to exclude competitive contracts?

I think that the situation you are talking about is actually a competitive contract. Frankly, I don't have any problem with competitive contracts because if it's real competition, the market will take care of

the increase, it will be defensible because the market is there to defend it. Is that contract competitive?

Ms. TUCKER. Both contracts, the original which was awarded back in August last year which was competitively achieved—I think we had 15 bidders—as the second one was. He got the first order. He learned through doing his manufacturing processes that he had underbid.

He said we had not taken into account the expense that was required to produce the item.

The next time around he bid, I believe, 69 percent higher himself. So that it was awarded to the second firm with the 25-percent increase.

Senator LEVIN. Would you support and modify that requirement so it only applies to noncompetitive contracts?

Ms. TUCKER. I'd welcome it because it does create a great deal of paperwork, high level review, and it takes a great deal of my time to prepare all that documentation and to certify it.

Senator LEVIN. Would you, again, now that I have disclosed that I was the author of that amendment, you may feel a little constrained to answer it but don't be, be totally candid.

On noncompetitive contracts do you have any objection to it being maintained?

Ms. TUCKER. None whatsoever because we do that automatically.

Senator LEVIN. So you really don't need it?

Ms. TUCKER. We are going to look at that history and we are going to look at one very carefully in each situation.

Senator LEVIN. But the certification would not be done automatically.

Ms. TUCKER. No; not that step. It would be the approval more than anything else.

Senator LEVIN. Mr. Agattas, let me throw this at you.

What is the length of time that is taken by the DCAA to complete a field pricing audit?

Mr. AGATTAS. Well, sir, through my experience, the complete cycle takes between 70 and 75 days.

Senator LEVIN. Seventy to seventy-five days?

Mr. AGATTAS. Seventy to seventy-five days and that comprises many parts. We make a request to our pricing division. They in turn make a request to DCAS, that's the DCAS office and then to DCAA.

Senator LEVIN. How much time is allotted those audits by regulation?

Mr. AGATTAS. Thirty days is the allotted time.

Senator LEVIN. Now there's a gap. What document do you need? Do you need more auditors?

Let me ask you one question at a time.

Does it make a difference to you that it takes 70 days instead of 30 days?

Mr. AGATTAS. Yes; it certainly does. We lose, first of all, but we have the administrative lead time which is very important. The items aren't being produced and sent out in the field in the proper time.

But more important, I think, my particular experience has been on spare parts and they take a lesser priority from the auditors because they have the systems to be audited and maybe they have a higher priority than my items, I'm not sure.

DCAA has 30 days and then it comes back to DCAS, administrative service, and they take about a 15-day period of time for the price to be provided, and then it comes back to our division and, as I say, the minimum, I think we've gotten them back in about 30 to 32 days which is very good. The maximum is maybe 180 days, so there's quite a range.

Senator LEVIN. I'm not so sure I understand the practical effects. Does that have an effect on the element of price or is it just an annoyance that it takes 70 days instead of 30?

Mr. AGATTAS. Well, in one particular case it did happen that the price was increased because the contractor hadn't negotiated the contract, that is, he didn't take into effect a labor union increase with his employees, so in effect it increased the contract in that 70-day period.

Senator LEVIN. Do we make any representations to contractors as to how long this process would take, if it's violated and takes longer than they are supposed to take? Do you know, are they told *X* number of days?

Mr. AGATTAS. They all have copies of our regulations and in those regulations it states what they are allotted. It should be 30 days.

Senator LEVIN. Mr. Glass, tell us about the pricing support office for the record, what is the role of that office?

Mr. GLASS. Well, sir, as I said before, we support the contracting officer. We analyze the proposal submitted by the contractor. We establish negotiated positions if it's a negotiated term, or we establish what we believe to be a fair and reasonable price. We make these recommendations to the PCO, and we assist them in negotiating it at a later time.

Senator LEVIN. Are you called upon to support every contract action?

Mr. GLASS. No, sir.

Senator LEVIN. About what percent?

Mr. GLASS. I would say we get involved in at least 50 or 60 percent.

Senator LEVIN. When is your office involved, is that discretionary or is it automatic on certain contracts?

Mr. GLASS. It's automatic on certain contracts, sir. Anything that requires cost and pricing data we get involved in.

Senator LEVIN. Which ones?

Mr. GLASS. Any time the price jumps 25 percent, as you were discussing before, we get involved. Any time the contracting officer has a suspicion or has a reason to believe that there is something wrong with the bid he can call us in at any time.

Senator LEVIN. What tools would enable you to most effectively complete your mission? Is there anything that we can and should do to help you out?

Mr. GLASS. Computers, sir.

Senator LEVIN. Pardon?

Mr. GLASS. Computers.

Right now we are a test bed for a computer. As you were discussing before, we are trying to get on a computer so we can work smarter.

Senator LEVIN. Tell us for the record, and this is going to be read by lots of people, in your own words, what difference does it make?

Mr. GLASS. The difference is working behind the contractor or equal with the contractor. You walk into a negotiation and the contractor turns to the terminal, punches out his position, and changes it in maybe 5 minutes. We have to go back in 24 hours on a spread sheet and there's a difference, sir.

Senator LEVIN. Ms. Tucker, do you want to comment on that? Let me ask you the same general question and then I'll get to your boss.

What can we provide you, if anything, other than a bigger salary, to help you out? I beat you to it.

Ms. TUCKER. Right.

We face the same problem as Mr. Glass.

When we are doing our price evaluation we do it on procurements that are noncompetitive under $100,000 and we do it on competitive items under 500. In the other cases we send them to pricing. For those that we do, we have a long manual process to go through. Of researching information. One of our best resources is to go to the technical manual and review the item there and find its application.

The next higher level is we send it for the history of the higher level assembly, but that process can manually then take hours, and obviously we could work much more efficient and come up with much better determination with the aid of a computer and a computer person, I should say.

Senator LEVIN. Do you have any idea what the program calls for for computerization, how many years it's going to be?

Ms. TUCKER. I don't have any expertise in that area.

Senator LEVIN. Well, I know you don't have any expertise, but what's the word in the shop?

Ms. TUCKER. I heard that they are working on a number of different procedures and programs. We have some programs that we're working on right now. When I talk to the people down in the area that work on it, one is to automate our history cards. That will take several months, perhaps a year or so.

I understand there's also a study going on to get a picture of the item on a video disk system. But all those sound long term to me. Nothing that I see immediate. We do have some more terminals coming in that will help us get into the data bases that we ought to have.

Senator LEVIN. Mr. Agattas, what's the word you get at your level? How long is it going to take Washington to give you the tools you need?

Mr. AGATTAS. There's no question computers are definitely the answer. My son happens to be a computer scientist so I'm pushing it all the more.

Senator LEVIN. Is there any causal relationship?

Mr. AGATTAS. No, he doesn't work for the Government.

But seriously, Senator, I'm an advocate of computers from day one. There's no question we have all the facilities in our hands right now, Connie Tucker said on procurements over $100,000. We have to adjust the final price on every single contract we award, regardless of dollar value. We do a very good job of that right now. It's just the length of time it takes. There's no question that all the facilities are there, it's a matter of putting them into the computer. I really can't tell you, Senator, how long it will take, but it has to be at least 3 years down the road if we are funded for it.

Senator LEVIN. You're still a believer that we are going to produce them for you at some point?

Mr. AGATTAS. There's no question you have to.

Senator LEVIN. Let's go back to you, Mr. Glass.

When cost and pricing data are submitted on a contract, is it always usable by your shop, it is in a usable form?

Mr. GLASS. With analysis it's generally usable, sir.

Senator LEVIN. Is there sometimes it ought to be furnished on a magnetic tape that it's not?

Mr. GLASS. I believe it would be extremely helpful to be submitted on magnetic media. It would cut down our overhead time on analysis tremendously. But, again, it's got to be on the computer.

Senator LEVIN. Ms. Tucker, when you negotiate a contract and you have certified cost and pricing data and a field support audit, are you bound by the recommendations of those audits?

Ms. TUCKER. No, that's advisory.

Senator LEVIN. To what extent are they on target? How often are they way off? How often are they right on the money?

I don't want you to embarrass your colleague.

Ms. TUCKER. I don't have any great number of figures. I have only had one instance where they were right on it. That's only one case where we took it as it was submitted.

Senator LEVIN. Do you have sufficient flexibility?

Ms. TUCKER. Right now I believe we do, yes, and when we work with the price analyst and we work with the auditor, yes, we do.

Senator LEVIN. When you negotiate with somebody do you have occasion, have you had occasion for that person to complain about your negotiating tactics being too strong, they're going to go to a supervisor?

Ms. TUCKER. No. I haven't had that occasion.

Senator LEVIN. Mal says yes, so I guess so.

Mr. Glass?

Mr. GLASS. Yes, sir, I have had two occasions where that has happened. I have had it where the supervisor will support you if you have done your homework.

Senator LEVIN. Is there a channel for that to occur properly, if a contractor is saying, wait a minute, Ms. Tucker is just being absolutely unreasonable on this, I've got to get some relief; is there a stated channel in the regulations for that contractor to go? What happens if he contacts the Secretary of Defense, or the Assistant Secretary of Defense or a Senator, or Mr. Agattas, what if I asked you?

Mr. GLASS. Mr. Agattas says the PCO would be the next step from the contract specialist and price analyst, because that PCO is responsible.

Senator LEVIN. Is it proper for a contractor to go to Ms. Tucker's supervisor, saying, she's impossible, I can't negotiate with her any more, is that considered to be cricket?

Mr. GLASS. Why not?

Senator LEVIN. Is it considered cricket to go above Mr. Agattas?

Mr. Agattas, let me ask you that question. Have you ever been in that situation where somebody negotiating with one of your negotiators has gone above your head to somebody?

Mr. AGATTAS. First of all, Senator, in the first situation, yes, I have had a couple of occasions where a contractor could not see eye to eye with the working of my particular contract specialist. This goes back a few years. Therefore, I sat in. I normally don't sit in on negotiating contracts with my contract specialists. Perhaps at certain periods with contracting officers I do sit in. In my particular case I have full confidence in my contract specialists.

Senator LEVIN. Do you consider it appropriate for a contractor to come to you and say, I'm having problems, I would like you to sit in?

Mr. AGATTAS. Well, I would say that isn't the norm. But it is appropriate. There is nothing wrong with it and I would expect it.

Senator LEVIN. It's not inappropriate.

Mr. AGATTAS. No, that is correct.

Senator LEVIN. Would it be inappropriate to go above you, either to a political source or higher up in the command?

Mr. AGATTAS. I would rather not comment, Senator, because I have never had that situation arise. I have always been able to negotiate.

Senator LEVIN. Have any of you heard where that situation has arisen where they went above the supervisor?

Ms. TUCKER. I can't think of any, sir.

I had one case where the contractor was upset with the time it was taking but a simple explanation of what had occurred and what steps were required cleared that up.

Senator LEVIN. Mr. Glass, have you ever heard of a contractor going above the supervisor to complain about the negotiating tactics of the contracting officer?

Mr. GLASS. No, sir.

Senator LEVIN. Back to those overhead rates. I gather the answer on that is that you basically accept the negotiating rates which have been set forth, excuse me, you accept the overhead rates which have been set forth by the DCAA as the appropriate rate?

Ms. TUCKER. Not always. In other words, if we have data or information comes out during the negotiation that perhaps gets back to the auditor, we check it out, find out if he took it into account, we get his opinion on the information and data we have, we work together with the price analyst and we may negotiate different rates depending on the circumstances.

Senator LEVIN. Does it make any difference in your mind, again, I want to go back to a question I think you have answered. I'm going to try it again. Would it make any difference in your mind that the part that you are buying, I'm talking again about noncompetitive, is a part that you know that contractor does not add much value to; does it go through your mind that this is really a little bit crazy that we are given these overhead figures on a part that I know that contractor simply bought and is going to have shipped to him?

Ms. TUCKER. Certainly it's a concern and our ultimate objective is to buy direct from the source producing them.

Senator LEVIN. Until that happens, it does run through your mind, is it fair to say?

Ms. TUCKER. Certainly.

Senator LEVIN. We are more than 550 miles away. We could be 550 light-years away. It goes through our minds, I know there are sometimes answers to these things that look absurd on the surface, and

sometimes there's a totally logical answer to it. So I'm interested in whether or not it goes through your minds here where the action takes place, some of the same thoughts that go through our minds that you find out about.

You've answered that.

On the negotiating of overhead rate that are different from those recommended by DCAA you would go back to DCAA before you negotiate?

Ms. TUCKER. We would talk to the auditor, that's a requirement. We go to the price analyst and, again, accounting isn't an exact science, and there can be honest differences of opinion, just exactly the way it should be.

Senator LEVIN. Do you ever negotiate higher overhead rates than recommended by the DCAA?

Ms. TUCKER. I would think there would be occasions. I haven't personally done that but I think there obviously would be occasions where that would be appropriate.

Senator LEVIN. If you do negotiate different rates, they more frequently would be negotiated downward than upward, is that fair to say, the overhead rate?

Ms. TUCKER. In the occasions where I have done it, yes, in our personal situation.

Senator LEVIN. Mr. Glass, would that be more often negotiated downward than upward?

Mr. GLASS. That definitely would be our target. It depends on conditions again, but that definitely is our aim.

Senator LEVIN. Mr. Agattas, could you give us your conclusions?

Mr. AGATTAS. There is no question, Senator, in the majority of cases we would negotiate the overhead rates downward. On occasion we would accept them as they are. Almost never upward.

Senator LEVIN. I think you've answered this question relative to computers.

Whether or not we computerize in the near future and that's something I will be pushing when we get to this year's budget by the way, whether or not we are able to do it next year, the year after, or the year after, even in the absence of a computer, isn't it essential that the buyer physically see, if possible, a drawing or picture of the part he or she is buying, Mr. Agattas?

Mr. AGATTAS. We do that today. We have assembly drawings or the top sheet drawings, if you want to call it that, for everything we buy now, regardless of dollar value.

Senator LEVIN. If I told you that frequently, at least at some commands, the buyer does not have a picture, a drawing of what he or she is buying, would that come as a shock to you?

Mr. AGATTAS. It would be a shock because I have only been associated with the people here at TACOM, with the Federal services here at TACOM. It's the only way we buy and I can't comprehend buying without seeing it.

Senator LEVIN. In terms of the description of the part, in simple, understandable English, rather than in some engineering or technical description, would it also be a necessity in your mind that the buyer also not only see what he or she is buying but also see a simple description of it, or is that less important than being able to see it?

Ms. Tucker, do you want to try that one?

Ms. TUCKER. Could you go over that again?

Senator LEVIN. Yes.

Sometimes a part, which is a simple screwdriver, particular on provisioning contracts, is described in a technical way where it comes out to be a vertical pressure applicator. Now, should the buyer know that it's a screwdriver?

Ms. TUCKER. Obviously, it would help.

Senator LEVIN. Does it help or doesn't it make much difference? If you can see the part, does it make any difference if you know it's a screwdriver?

Ms. TUCKER. That's the reason we take the extra step, in most instances, of at least getting the schematic representation of the item whenever we can. Yes, it's obviously very important to have that. We can have a much better understanding of the application.

Senator LEVIN. Would you say that it is equally or more true in provisioning contracts?

Ms. TUCKER. I understand it's a problem in provisioning contracts. I'm not an expert in that area though.

Senator LEVIN. You understand it's a problem?

Ms. TUCKER. I understand it's a problem in provisioning but it's not something that I work with.

Senator LEVIN. Do either of you gentlemen want to comment on that necessity in the area of provisioning contracts?

Mr. GLASS. You should know what you're buying, whether it's in Government buying or out of your own pocket. It's a prerequisite. It's common sense. You've got to have common sense when you buy something.

Senator LEVIN. Mr. Smith, Mr. White, do you want to add a question? I just have one more wrap-up question after you're done.

Mr. SMITH. I just want to ask each of you very briefly or perhaps Mr. Agattas. We have testimony earlier this morning that you were getting additional personnel. I wondered whether you have adequate time, particularly Ms. Tucker, adequate time to spend on the buying decisions that you make. You have to comprehend and digest an enormous amount of material, technical data, pricing data and so on. I wonder if you have enough time to do this properly. Do you work overtime, for example? How many of these decisions do you have to make during the day? Are there some things that slip through just because you don't have adequate time?

Ms. TUCKER. Adequate time. I do work overtime and have for the last several Saturdays. I think the biggest problem is training the new people coming in. We've talked about all the additional people coming in and giving them the complete training they need, teaching them how to read the drawings, how to use the resources we do have available, how to learn about the PM, how to learn about the assemblies. We are continually discovering more and better resources and the key is it's the teaching and having the time to teach to train. And that's one of the, particularly for us who have been around for a few years, that's a major job.

Mr. SMITH. What's the typical background of somebody who comes to work for you, do they have a business background, history major?

Ms. TUCKER. Full range. I did some interviewing just recently. We were interviewing quite a few business majors. Perhaps they will tend to be from that group but, again, I'm not sure that it makes a difference because if you are motivated and interested I'm sure with good training we can make you a good buyer.

Mr. WHITE. I have no questions.

Senator LEVIN. I did want to wind up in a minute or two but I do have one other question before I do that.

Would it be useful to require an actual manufacturer's name to be on the technical drawing?

Ms. TUCKER. Are you talking about in all cases before we have competitive data, or are you just talking about those that are noncompetitive? I'm not sure what you are talking about.

Senator LEVIN. On noncompetitive. In noncompetitive situations, would it be useful to you to know who the actual manufacturer is and require that the technical drawing include the name of the actual manufacturer?

Ms. TUCKER. Certainly, because then we can go to that source, obviously.

Senator LEVIN. It would help stimulate at least the possibility of competition?

Ms. TUCKER. Yes.

Senator LEVIN. That is 1 of the proposals, 1 of the 20 proposals.

Now I have asked you how we can help you. What additional tools can we give you folks to help you, and everybody says get going on your computerization. We have heard a lot about that and that is a message that I will carry back with real force to my colleagues.

Is there anything else you would like to comment on before I ask you that question in a different form?

Are there any other tools that we can give to you?

Ms. TUCKER. Automation is certainly the biggest and would make us—it would certainly add to our efficiency. It's difficult from there because we don't know what the impact is.

I suppose the other thing is having the trained personnel to train these buyers coming in, and having a good ratio of upper level or trained buyers, contracting officers. You don't want to be burdened with so many people that they can't do an adequate job.

Senator LEVIN. Mr. Agattas or Mr. Glass?

Mr. AGATTAS. The only thing I could add, Senator, would be that in my current section I have about 50 percent trainees and 50 percent contract specialists such as Ms. Tucker. It does take an awful lot of their time but that's a necessary evil. I can see the fruits of their labor in the next year or two, but over and above that we have all the facilities at our disposal right now. We are currently having blueprint-reading courses in our particular section. Other than that I can't think of anything else.

Senator LEVIN. Mr. Glass?

Mr. GLASS. Again, I would have to agree with my colleagues, it is the training and the overhead.

Senator LEVIN. Now let me ask you a different kind of question.

What burdens do we pile on you that are purposeless, redundant, wasteful? We all are struggling to see if we can't increase competition to give you the tools that you need to negotiate from a position of

strength. I don't want to have to rely on the contractors. To me, if it's a free market, we are trying to achieve here we have got to give our side of the negotiating table the weapons and the information and the capability to negotiate on a par with the private sector on the other side. That's what the free market should be all about. We need people who have the skills, the tools, the time to do it because the public says they want to eliminate the wasteful practices that exist.

Now in that effort, and I think we are trying to do that, but in that effort we sometimes pile on you, from good intentions, things that are really nonproductive and I know it's a sensitive setting. You may not want to tell us how foolish some of the things are in front of all these people, but you can either do it now or if you want to you can do it for the record.

We would urge you to do it because it is important that we not just give you a lot of paperwork to do which produces nothing in terms of reducing costs. I would be willing to sit here and have you tell us what it is that we have done that is nonproductive, even though the intention may have been good.

Who's got the most courage?

Mr. GLASS. If it's all right with you, sir, we would rather do that for the record.

Senator LEVIN. You would rather do that for the record.

[The information follows:]

Mr. JONES. There are four or five items which appear to be nonproduction which we would like to address.

First, Public Law 98–72, Section 8(e)(4), the Small Business Act, as implemented by Acquisition Letter 82–12, 28 Sep 83, requires the Head of the Contracting Activity (HCA) or his deputy, on a nondelegable basis, to approve the authority to enter into sole source contracts for more than $1,000,000 in Fiscal Year (FY) 1984, for more than $500,000 in FY 1985, and for more than $300,000 in FY 1986.

It would provide some relief, and still provide review, if you could retain the $1,000,000 threshold for sole source review in all future fiscal years. In addition, lower the review level from HCA to the Special Advocate for Competition, with power for delegation in his absence, to the Principal Assistant Responsible for Contracting (PARC). If review of lower dollar value sole source actions ($500,000–$1,000,000) is required, it should be performed by the PARC.

Second, the Armed Services Appropriation Act, FY 84, Section 799 states "None of the funds appropriated by this Act may be obligated or expended to formulate or to carry out any requirement that, in order to be eligible to submit a bid or an offer on a Department of Defense contract to be let for the supply of commercial or commercial-type products, a small business concern (as defined pursuant to section 3 of the Small Business Act) must (1) demonstrate that its product is accepted in the commercial market (except to the extent that may be required to evidence compliance with the Walsh-Healy Public Contracts Act), or (2) satisfy any other prequalification to submitting a bid or an offer for the supply of any such product."

While Section 779 of the ACT eliminates the possibility of requiring a small business to prequalify its offer prior to submission, it may also adversely affect the Department of the Army's policy to "Buy Commercial" when an available commercial product will meet the government's needs.

At TACOM, solicitations for Construction Equipment, i.e., cranes, forklifts, scrapers, could require the product offered to be the latest model for which significant quantities have been sold or used for a same or similar application for at least one year prior to submission of the offer. The advantages of this "product experience" requirement were: (1) the government would receive commercial and improved commercial products fielded, tested, and proven in the commercial market; (2) extensive testing of these products would be eliminated; (3) repair parts would be available; (4) quality assurance and other commercial standards, such as safety factors and EPA would be built into the item automatically.

As a result of Section 779, these advantages have been eliminated. Now a solicitation requires extensive detailed specifications and test requirements for all offerors which would increase Production Lead Time. The situation may be created in which a previous offeror of a commercially accepted item may be able to submit an offer for a "stripped down" version of the same item which would, however, meet all government specification and tests.

We would hope that the committee would review the impact of Section 779 on the benefits of Buying Commercial, Nondevelopmental Items, as outlined in AR 70-1, Chapter 6, and provide for waivers on Section 779 requirements for specific items with universal application and highly developed commercial standards such as Construction Equipment.

The third item regards the payment of Federal Excise Tax on DOD procurements as required by 26 USC S4051 and S4071 and DAR 7-103.10(a). This creates a serious nonproductive workload problem for TACOM and its contractors, i.e., administrative uncertainty as to whether or not FET is applicable to certain acquisitions of military vehicles and tires, and negotiation of contract modifications when vehicle shipments are changed from domestic to export destinations and vice versa.

The FET issue causes contract and contract modification negotiations to become overly complex, and has resulted in disputes which must be litigated. We recommend all military acquisitions should be exempt from FET.

The fourth item would help us adapt more readily to changing situations. 31 USC 1341 (RS 3679) as implemented by AR 37-100 limits obligation of O&M appropriations for Capital Investment Items to equipment with a purchase value less than $3,000.

The lead time required for obtaining Procurement Approriations, Army authorization is from one to five years. O&M appropriation authorization can be obtained within one year. The ability of the Army to effectively acquire ADP equipment to meet immediate and previously unforeseen requirements would be enhanced if O&M appropriations were available for obligation and the O&M obligation threshold for Capital Investment Items was increased to $25,000.00.

Ms. TUCKER. The only thing I would mention as a fifth item is the 25-percent increase.

[Additional information follows:]

Section 1215(a) of DOD Authorization Act of 1984 as implemented by Acquisition Letter 83-15 requires that all unit price increases at anual rates of 25% or more be reviewed and approved by the HCA.

The process of requiring HCA approval of all unit price increases of 25% or more adds about five work days to the administrative leadtime for each such procurement action. The review burdens the procurement process with inefficiency due to the involvement of supervisory and management personnel in the preparation and review of documentation. For competitive procurements, the review is of no benefit since the existence of competition is sufficient justification for fair and reasonable prices.

Senator LEVIN. Applying that to the noncompetitive business.

Mr. Agattas?

Mr. AGATTAS. Yes, sir.

Senator LEVIN. Seriously, it may seem like a sensitive question but it isn't. We've all got thick skins, I hope, and we should be willing to hear when our good intentions don't work out at the grassroots level. We want to hear about that.

We want to make sure that you've got the time and the equipment to do the things the way the citizenry wants us to do them and whatever we can do in that regard, let us know, either today, or for the record privately, and I address this, by the way, to your colleagues in the audience, those who weren't here, they should feel free to let us know. Our goal is a common goal.

Frankly, if we waste money on procurement we are not just wasting money, as bad as that is, and adding to the deficit, as horrendous as that is, we are also undermining a strong defense and we need these

dollars for a strong defense. It's just wrong for all kinds of reasons to be spending money when we don't have to spend it.

We want to give you the tools and sometimes, in the desire to do that, we give you more than you need, more than you want. Let us know when that happens. Don't mince words with us. We won't necessarily respond or agree with you but be blunt.

Again, either on the record, off the record, but somehow or the other do let us know because our goal is clear and, again, the public is insistent on it and understandably so. Some of us are spending a lot of time in this very dry area. This is an extremely dry area. But we are determined that we are going to plunge into it to the best of our ability and be of assistance to you. That's really what we are trying to be is of assistance to you. We are all public servants, all paid by the taxpayers.

Ms. Tucker, do you want to say something?

Ms. TUCKER. No; the only point I would like to make is that we have and recently I've gone through a thorough self-examination with the Director, and a lot of very worthwhile changes were made at that time, and we have a program, suggestion program where people do this on an ongoing basis. So I think there's a great deal being done internally to try and improve the system and to remove those type of time-wasting activities.

Senator LEVIN. So the public understands the dimensions of TACOM, using General Ball's testimony here, there are 6,000 civilian employees, 400 military personnel—let's round that off and say approximately 6,000—and you handle about 1.5 million and I'm rounding that off—1.4 million, say 1.5 million requisitions a year, that's an awful lot of action for each one of our people, and that's why we've got to be careful to make sure that we help you and not add problems that are not productive.

We're proud of you here. You have a facility which I think probably leads the Nation in terms of percentage of competition. Again, there are times we can't have competition. We understand that. There are times that there's only one company that produces something, and there's something which is classified and which for other reasons must be bought noncompetitively. We are all after that same goal which is competition.

We are proud of TACOM, not just for that reason but for a lot of reasons. We are delighted that you were here today, along with the other panelists, to help us create a record which is now going to be typed up, printed, and I hope it looks, when it's printed, something like what it sounded like today.

Again, the Armed Services Committee of the Senate will be looking at this record and the other documents, and I hope acting this year on a comprehensive set of changes and reforms which will be helpful. Changes aren't always helpful. Sometimes changes are in the wrong direction. We are hopeful that whatever ones we come up with this year or next year will be helpful ones, and will assist you in accomplishing the goal of the most cost effective procurement that we possibly can achieve for the taxpayers.

With that, my thanks to all of you at TACOM.

[Whereupon, the subcommittee adjourned to reconvene at the call of the Chair.]

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